

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	\$	
Johnson, Jerromy Laverne, et al	\$	
	\$	Confirmation No.: 7130
Serial No. 10/649,252	\$	
	\$	Group Art Unit: 3626
Filed: August 26, 2003	\$	
	\$	Examiner: Altschul, Amber L.
For: SYSTEM AND METHOD FOR	\$	
ESTABLISHING RATES FOR A	\$	
PROPERTY INSURANCE POLICY	\$	

BRIEF OF APPELLANT

Mail Stop Appeal Briefs – Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Brief is submitted in connection with an appeal from the Final Rejection of the Examiner mailed to the Applicants on January 9, 2008, finally rejecting claims 1-21 all of the pending claims in this applications.

REAL PARTY IN INTEREST

The real party in interest is United Services Automobile Association, Reciprocal Interinsurance Exchange in the State of Texas, having a principal place of business at 9800 Fredericksburg Road, San Antonio, Texas 78288, United States of America. This is evidenced by an assignment recorded with the U.S. Patent and Trademark Office on December 23, 2003 at Reel 014833 Frame 0130.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and no related interferences regarding the above-identified patent application.

STATUS OF CLAIMS

The status of the claims is as follows:

Claims 1-21 are pending in the application and are rejected.

Claims 1-21 are being appealed.

Claims 1-21 are set forth in the CLAIMS APPENDIX, attached hereto.

STATUS OF AMENDMENTS

A Final Office Action was mailed to the Applicants on January 9, 2008, finally rejecting claims 1-21.

The Examiner has stated that for purposes of Appeal, the proposed amendment after final, filed April 9, 2008, will be entered. The claims rejected and pending are 1-21.

A Notice of Panel Decision from the Pre-Appeal Brief Review was mailed on September 12, 2008, indicating that claims 1-21 were rejected and that the application remains under appeal because there is at least one actual issue for appeal, and requiring Applicants to submit an Appeal Brief in accordance with 37 CFR §41.37.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, in one embodiment, as now set forth in independent claim 1, relates to a method for establishing rates for a property insurance policy, the method comprising:

determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, such that no single risk characteristic is the sole determinant for placement in a tier, the factors including: Page 3; paragraph [0005]; lines 1-3; Figs. 1, 2, 4, 5.

- a) a protection class; and Page 5; paragraph [0017]; lines 1-8; Figs. 1, 2, 4, 5.
- b) a previous paid loss history; and Page 5; paragraph [0018]; lines 1-10; Figs. 1, 2, 4, 5.

establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote. Page 6; paragraph [0021]; line 1 - Page 7; paragraph [0027]; line 3; Figs. 1, 2, 4, 5.

The present invention, in an embodiment, as now set forth in independent claim 14, relates to a system for establishing rates for a property insurance policy, the system comprising:

a computer system for determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, the computer system including: Pages 7-8; paragraph [0029]; lines 1-17; Figs. 6-7.

a storage device storing a program; and Pages 7-8; paragraph [0029]; lines 1-17; Fig. 6.

a processor coupled to the storage device, the processor operative with the program for establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant in response to determining a protection class factor and a previous paid loss history factor, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote. Pages 7-8; paragraph [0029]; lines 1-17; Fig. 6.

The present invention, in an embodiment, as now set forth in independent claim 18, relates to a method for establishing rates for a property insurance policy, the method comprising:

an applicant communicating a request for property insurance; Page 8; paragraph [0030]; lines 1-5; Fig. 7.

in response to the request, using a computer system for determining a single tier placement for the applicant dependent upon a combination of mutually exclusive factors based on a plurality of data provided by the applicant, the factors including: Pages 7-8; paragraph [0029]; lines 1-17; Figs. 6-7.

a) a protection class; and; Page 5; paragraph [0017]; lines 1-8; Figs. 1, 2, 4, 5.

b) a previous paid loss history; and Page 5; paragraph [0018]; lines 1-10; Figs. 1, 2, 4, 5.

establishing a rate quote for a property insurance policy of a single membership organization for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote. Page 6; paragraph [0021]; line 1 - Page 7; paragraph [0027]; line 3; Figs. 1, 2, 4, 5.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-6, 14, 16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jinks et al (U.S. Patent Application Publication No. 2002/0055862) (Jinks hereinafter), in view of Ogawa et al (U.S. Patent Application Publication No. 2001/0023404) (Ogawa hereinafter).

Claims 7-13, 15, 17 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jinks, in view of Ogawa and further in view of ChoicePoint, 2002-01-24, [online], Retrieved from web.archive.org using the Internet <URL: <http://web.archive.org/web/20020124085629/http://www.choicepoint.net/>> (ChoicePoint hereinafter). Applicants respectfully submit that these rejections are not applicable to the pending claims.

ARGUMENT

Claims 1, 14 and 18 recite:

Claim 1

A method for establishing rates for a property insurance policy, the method comprising:

determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, such that no single risk characteristic is the sole determinant for placement in a tier, the factors including:

- a) a protection class; and
- b) a previous paid loss history; and

establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.

Claim 14

A system for establishing rates for a property insurance policy, the system comprising:

a computer system for determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, the computer system including:

a storage device storing a program; and

a processor coupled to the storage device, the processor operative with the program for establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant in response to determining a protection class factor and a previous paid loss history factor, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.

Claim 18

A method for establishing rates for a property insurance policy, the method comprising:

an applicant communicating a request for property insurance;

in response to the request, using a computer system for determining a single tier placement for the applicant dependent upon a combination of mutually exclusive factors based on a plurality of data provided by the applicant, the factors including:

a) a protection class; and;

b) a previous paid loss history; and

establishing a rate quote for a property insurance policy of a single membership organization for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.

THE CITED REFERENCES FAIL TO TEACH ALL OF THE ELEMENTS OF THE CLAIMS.

These rejections are not applicable to the pending claims because the rejection lacks a *prima facie* case of obviousness. Specifically, there is no support for an obviousness rejection of the claimed subject matter as a whole because **Jinks, Ogawa and ChoicePoint fail to disclose each element of the claims or to suggest the missing elements.** Therefore, reversal of the rejection and a notice of allowance of all pending claims is respectfully requested.

Independent claims 1, 14, and 18

In the Final Office Action dated January 9, 2008, the Office Action asserted with respect to independent claims 1, 14, and 18 that "[o]ne of ordinary skill in the art at the time the invention was made would have found it obvious to combine Jinks, and Ogawa's teachings with the motivation of providing premium estimates from a plurality of insurance providers based on inputting conditions which affect the premium calculation." (Pages 3, 5, and 7, Office Action mailed January 9, 2008). The Office Action further asserted, with respect to independent claim 14, that Ogawa teaches "processing the insurance information in accordance with the respective underwriting rules to determine whether a premium quotation may be issued for each of the two or more insurance carriers." (Page 5, Office Action mailed January 9, 2008).

However, neither Jinks, Ogawa, Choicepoint, nor any combination thereof, support a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (MPEP §2143).

With respect to the third criteria, the Applicants respectfully submit that the references fail to teach "establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote" as recited by independent claims 1 and 14. Applicants also respectfully submit that the references fail to teach "establishing a rate quote for a property insurance policy of a single membership organization for the applicant based on the tier placement of the applicant, wherein

the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote" as recited by independent claim 18.

The Examiner looks to Ogawa to teach providing premium estimates from a plurality of insurance providers. The only reference found in Ogawa relating to "a single insurance company" is found in paragraph 5, where, along with paragraph 6, **Ogawa teaches away from reviewing insurance premiums of a single insurance company** on that company's web site. In this sense, **Ogawa teaches that by having a lack of "compare commodities of various companies, it is necessary to individually access the web site of each company."** (See Ogawa paragraph 6). Also, **Ogawa teaches a single rate quote from each of the multiple insurance vendors** and NOT **a preferred rate quote, a standard rate quote, and a non-standard rate quote** from a single insurance company. Thus, it is submitted that Ogawa teaches that an insurance broker gathers the established rates for multiple insurance companies and then the broker provides the rates to the customer or potential customer.

To the contrary, the pending claims relate to one insurance company establishing property insurance rates for direct communication to one customer or potential customer and then providing the established rate to the customer or potential customer.

The Jinks reference relates to "[a] system and method for interactively evaluating a commercial insurance risk in an interactive insurance server. Underwriting information comprising at least one underwriting rule corresponding to one or more classes of commercial insurance is received for a plurality of carriers at the interactive insurance server. . . . The interactive insurance server retrieves at least one underwriting rule corresponding to the commercial insurance class for each of **two or more insurance carriers** and processes the insurance information in accordance with the respective underwriting rules to determine whether a premium quotation may be issued for each of the **two or more insurance carriers.**" (See Jinks Abstract).

Thus, it is clear that both **Ogawa and Jinks relate to providing premium estimates from a plurality of insurance providers.**

Conversely, claims 1, and 14 each recite, among other things, "establishing a rate quote for a property insurance policy of a **single insurance company** for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of **a preferred rate quote, a standard rate quote, and a non-standard rate quote**" and claim 18 recites, among other things, "establishing a rate quote for a property insurance policy of **a single membership organization** for the applicant based on the tier placement of the applicant, wherein the tier

placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote." The Applicants again respectfully submit that the claims are not directed to providing premium estimates from a plurality of insurance providers based on inputting conditions which affect the premium calculation, as is taught by Ogawa and Jinks.

Additionally, Jinks inquires about prior claims and if they were over an amount. See Jinks Fig. 6a.

Conversely, the pending claims inquire about a previous paid loss history. The rejection improperly assumes that a claim is always paid. It is submitted that just because a claim is made, the claim may not always be paid, as the Examiner has improperly assumed.

Furthermore, the Examiner has stated on pages 11 and 12 of the Final Office Action mailed January 9, 2008 that "[i]t is readily apparent that Ogawa suggests 'establishing a rate quote for a property insurance policy of a single insurance company' (See Ogawa, page 1, paragraph 5)" and that "[i]t is readily apparent that Jinks suggests 'establishing a rate quote for a property insurance policy of a single membership organization', (See Jinks, page 1, paragraph 2)." However, these remarks are respectfully traversed.

As discussed above, the present pending claims relate to providing an insurance rate quote coming from "a single insurance company" and from "a single membership organization." Conversely, the cited sections of both Ogawa and Jinks teach creating an insurance quote by combining insurance quotes from MULTIPLE insurance companies, not a single insurance company, into a single quote for the customer.

For example, the title of Ogawa is "TECHNIQUE FOR GENERATING INSURANCE PREMIUM QUOTES BY **MULTIPLE INSURANCE VENDORS** IN RESPONSE TO A SINGLE USER REQUEST." Emphasis added. In addition, paragraphs [0006] and [0007] of Jinks respectively state "[t]he present invention, as described herein, comprises methods and systems for implementing an interactive insurance system that enables an agent to evaluate a commercial insurance risk based on underwriting information for **a plurality of carriers**" and "[a]ccording to an alternate embodiment of the present invention, a system is provided for interactively evaluating a commercial insurance risk based on underwriting information for **a plurality of insurance carriers.**" Emphasis added.

Thus, it is clear that neither of these references teach establishing a rate quote for a property insurance policy of **a single insurance company or a single membership organization**, as recited in the pending claims and defined throughout the specification and figures for the pending application.

The deficiencies of Ogawa and Jinks, as discussed above, are not remedied by ChoicePoint, which is cited generally for determining an insurance credit score.

As discussed above, all limitations of independent claims 1, 14, and 18 are not described, taught, or suggested in the above citations, either independently or in combination. Thus, the citations cannot support a 35 U.S.C. §103 rejection for the same. Accordingly, in view of these remarks, reversal of the rejections and a notice of allowance for independent claims 1, 14, and 18 is respectfully requested.

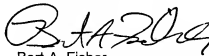
With regard to the foregoing, the Applicants respectfully submit that independent claims 1, 14, and 18 are patentably defined over the citations of record. Further, the dependent claims 2-13, 15-17, and 19-21 should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

CONCLUSION

It is respectfully submitted that the various combinations of references fail to each or suggest the subject matter of claims and establish a *prima facie* case of obviousness as the claims are recited and defined throughout the specification and figures.

For all of the foregoing reasons, it is respectfully submitted that claims 1-21 be allowed. Reversal of the rejection and a notice of allowance for all pending claims is respectfully requested.

Respectfully submitted,



Bart A. Fisher
Registration No. 55,181

Dated: 10-10-08
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202
Telephone: 512.867.8458
Facsimile: 214.200.0853
ipdocketing@haynesboone.com

CERTIFICATE OF TRANSMISSION	
I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:	
on	<u>October 10, 2008</u>
Date	
	<u>ay. Kim Reyes</u>
	Kim Reyes

CLAIMS APPENDIX

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Previously Presented) A method for establishing rates for a property insurance policy, the method comprising:
 - determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, such that no single risk characteristic is the sole determinant for placement in a tier, the factors including:
 - a) a protection class; and
 - b) a previous paid loss history; and
 - establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.
2. (Original) The method as defined in claim 1 wherein the policy is a renewal policy.
3. (Original) The method as defined in claim 2 wherein the protection class is one of a plurality of nationally published numbers.
4. (Original) The method as defined in claim 3 wherein the nationally published numbers are in a range of from 1 to 10.
5. (Original) The method as defined in claim 2 wherein the previous paid loss history establishes one number in a range of from 0 losses to 3 or more losses paid in a previous three year period.
6. (Original) The method as defined in claim 1 wherein the previous paid loss history is established based on one or more of information provided by an applicant, information provided by an insurer, and information provided by a third party.
7. (Previously Presented) The method as defined in claim 1 wherein the factors used for determining a single tier placement for the applicant further comprise an insurance credit score.

8. (Original) The method as defined in claim 7 wherein the policy is a new policy.
9. (Original) The method as defined in claim 7 wherein the insurance credit score is derived from a nationally used credit model.
10. (Original) The method as defined in claim 9 wherein the insurance credit score is a three digit number which falls into one of a set of multiple ranges.
11. (Original) The method as defined in claim 7 wherein the protection class is one of a plurality of nationally published numbers.
12. (Original) The method as defined in claim 11 wherein the nationally published numbers are in a range of from 1 to 10.
13. (Original) The method as defined in claim 7 wherein the previous paid loss history establishes one number in a range of from 0 losses to 3 or more losses paid in a previous three year period.
14. (Previously Presented) A system for establishing rates for a property insurance policy, the system comprising:
 - a computer system for determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, the computer system including:
 - a storage device storing a program; and
 - a processor coupled to the storage device, the processor operative with the program for establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant in response to determining a protection class factor and a previous paid loss history factor, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.
15. (Previously Presented) The system as defined in claim 14 wherein the processor is operative with the program to establish a rate quote for the property insurance policy for the applicant based on the tier placement of the applicant in response to further determining an insurance credit score factor.
16. (Original) The system as defined in claim 14 wherein the policy is a renewal policy.

17. (Original) The system as defined in claim 15 wherein the policy is a new policy.
18. (Previously Presented) A method for establishing rates for a property insurance policy, the method comprising:
 - an applicant communicating a request for property insurance;
 - in response to the request, using a computer system for determining a single tier placement for the applicant dependent upon a combination of mutually exclusive factors based on a plurality of data provided by the applicant, the factors including:
 - a) a protection class; and;
 - b) a previous paid loss history; and
 - establishing a rate quote for a property insurance policy of a single membership organization for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a non-standard rate quote.
19. (Original) The method as defined in claim 18 wherein the policy is a renewal policy.
20. (Previously Presented) The method as defined in claim 18 wherein the factors used for determining a single tier placement for the applicant further include:
 - an insurance credit score.
21. (Original) The method as defined in claim 20 wherein the policy is a new policy.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to 37 CFR §§1.130, 1.131, or 1.132, nor has any other evidence been entered by the Examiner.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings, and, thus, no copies of decisions exist.